

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALIGN TECHNOLOGY, INC.,

No. C-05-2948 MMC (JCS)

Plaintiff(s),

v.

**NOTICE OF REFERENCE;
ORDER TO MEET AND CONFER**

ORTHOCLEAR, INC., ET AL.,

Defendant(s).

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter has been referred to Magistrate Judge Joseph C. Spero for resolution of Non-Party TRG Holdings LLC's Motion to Quash Subpoenas to Carr Real Estate, Verizon, and XO Communications (Docket No. 50) and Defendants' and Non-Parties Kawaja's and Liu's Motion to Quash Subpoenas of Align Technology, Inc. (Docket No. 54) and all further discovery matters.

It appears that counsel have not made adequate efforts resolve these matters without the need for Court intervention. Accordingly, IT IS HEREBY ORDERED that **on February 17, 2006, at 9:30 a.m.**, lead counsel for Plaintiff, Defendants, and Non-Parties TRG Holdings LLC, Christopher Kawaja, and Frank Liu shall meet and confer **in person** regarding the subject matter of the motions in an effort to resolve these matters. This meet-and-confer session shall take place in Courtroom A, 15th Floor, 450 Golden Gate Avenue, San Francisco, California Within five (5) business days of the lead trial counsels' meet-and-confer session, the parties shall provide a detailed Joint Letter to the Court. This Joint Letter shall include a description of every issue in dispute and, with respect to each such issue, a detailed summary of each party's final substantive position, and its final proposed compromise on each issue.

LAW AND MOTION HEARING PROCEDURES

Civil law and motion is heard on Friday mornings, at 9:30 a.m., Courtroom A, 15th Floor, United States District Court, 450 Golden Gate Avenue, San Francisco, California.

Motions to compel may be noticed without reserving a hearing date, subject to the Court's availability.

In emergencies during discovery events, the Court is available pursuant to Civil L. R. 37-1(b). In the event a discovery dispute arises, lead trial counsel for the party seeking discovery shall in good faith confer **in person** with lead trial counsel for the party failing to make the discovery in an effort to resolve the dispute without court action, as required by Fed. R. Civ. P. 37 and Civil L. R. 37-1(a). The meeting must be **in person**, except where good cause is shown why a telephone meeting is adequate. A Joint Letter setting forth in detail these meet-and-confer efforts, each unresolved issue, and the final substantive positions of each party, shall be filed with the Court. The Court will then determine what additional proceedings are necessary.

A party or counsel has a continuing duty to supplement the initial disclosure when required under Federal Rule of Civil Procedure 26(e)(1).

Law and motion matters may be submitted without argument upon stipulation of the parties and notification of the Court no later than 4:30 p.m. the day before the hearing. Pursuant to Civil L. R. 7-7(e), filed motions may be withdrawn without leave of the Court, within seven (7) days of the date for service of the opposition. Thereafter, leave of the Court must be sought.

All documents shall be filed with the Clerk's Office in compliance with Civil Local Rules 7-2 through 7-5. Documents not filed in compliance with those rules will not be considered by the Court. Any party seeking an award of attorney's fees or other expenses in connection with this motion shall file a motion in accordance with Civil Local Rule 37-1(e).

COURTESY COPIES

All documents shall be filed in compliance with the Civil Local Rules. Documents not filed in compliance with those rules will not be considered by the Court.

BEFORE NOON ON THE NEXT BUSINESS DAY FOLLOWING THE ELECTRONIC FILING, THE PARTIES ARE REQUIRED TO LODGE DIRECTLY WITH CHAMBERS ONE

1 **PAPER** COPY OF EACH DOCUMENT, WHICH IS TO BE DESIGNATED "JCS'S CHAMBERS'
2 COPY." All filings of documents relating to motions referred to Magistrate Judge Spero shall list
3 the civil case number and the district court judge's initials followed by the designation "(JCS)".

4 The failure of counsel or a party to abide by this Order may result in sanctions pursuant to
5 Federal Rule of Civil Procedure 16(f).

6 IT IS SO ORDERED.

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8 Dated: February 9, 2006



9 JOSEPH C. SPERO
10 United States Magistrate Judge
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